

Appl. No. 10/828,699
Resp. dated March 9, 2006
Reply to Office Action of December 13, 2005

REMARKS

Applicants have carefully reviewed the Office Action mailed on December 13, 2005. Applicants respectfully traverse all objections, rejections, and assertions made by the Examiner. Claims 1-24 remain pending.

As a preliminary matter, Applicants have not received an initialed and dated copy of the Form PTO-1449 that was included with the Information Disclosure Statement filed on July 26, 2004. Applicants respectfully request that the Examiner return an initialed and dated copy of these Form PTO-1449's with the next communication from the Office.

Claims 1, 9, 10, 12, 20, 21, 23 and 24 stand rejected under 35 U.S.C. §102(e) as being anticipated by Kelley et al. in U.S. Patent Pub. No. US 2004/0133223. Please note that the cited Pub. No. is to Weber. In a brief telephone conference with the Examiner on January 26, 2006, the Examiner indicated that the reference in support of this rejection was intended to be Kelley et al. in U.S. Patent Pub. No. US 2005/0038383. Accordingly, the following discussion is in response to a rejection in view of Kelley et al. in U.S. Patent Pub. No. US 2005/0038383.

Regarding claims 1, 9 and 10, claim 1 recites that the one or more cutting members each include a traction region that is configured to improve traction between the balloon and a target site. While Kelley et al. do disclose cutting members coupled to a balloon, there is no teaching or suggestion that the cutting members in Kelley et al. include a traction region. The Examiner indicated that Kelley et al. disclose this feature at claims 1-5. Applicants fail to see the relevance of these claims to the rejection. Therefore, based on these remarks, Applicants respectfully submit that claim 1 is patentable over Kelley et al. Because claims 9 and 10 depend from claim 1, they are also patentable for the same reason and because they add significant elements to distinguish them further from the art.

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Regarding claims 12, 20 and 21, claim 12 similarly recites a cutting blade including means for cutting and means for gripping thereon. Kelley et al. do not teach or disclose these limitations. Consequently, Applicants respectfully submit that claim 12 is in condition for allowance. Because claims 20 and 21 depend from claim 12, they are also patentable for the same reason and because they add significant elements to distinguish them further from the art.

Regarding claim 23, this claim recites that the cutting blade includes an uneven traction surface that is configured to improve the traction between the balloon and a target site. Kelley et al. do not teach or disclose this limitation. Consequently, Applicants respectfully submit that claim 23 is in condition for allowance.

Regarding claim 24, this claim recites means for improving traction between the balloon and the intravascular lesion. Kelley et al. do not teach or disclose this limitation. Consequently, Applicants respectfully submit that claim 24 is in condition for allowance.

Claims 2-8, 11, 13-19 and 21-22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kelley et al. Please note that in the January 26, 2006 telephone conference, the Examiner indicated that the reference in support of this rejection was also intended to be Kelley et al. in U.S. Patent Pub. No. US 2005/0038383. Under 35 U.S.C. §103(c), subject matter that qualifies as prior art under 35 U.S.C. §102(e) shall not preclude patentability under 35 U.S.C. §103(a) where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. In this case, Kelley et al. only appears to qualify as prior art under 35 U.S.C. §102(e), if at all. Moreover, both Kelley et al. and Applicants had a duty to assign to the same person. Accordingly, Kelley et al. is not available as a prior art reference in support of a

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rejection under 35 U.S.C. §103(a) and the rejection of claims 2-8, 11, 13-19 and 21-22 under 35 U.S.C. §103(a) should be withdrawn in due course.

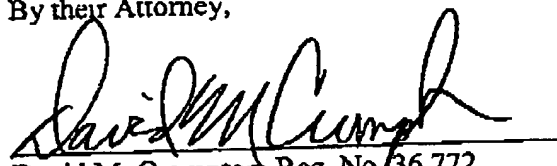
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Karen M. Cheves et al.

By their Attorney,

Date: 3/9/06


David M. Crompton, Reg. No. 36,772
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, MN 55403-2420
Telephone: (612) 677-9050
Facsimile: (612) 359-9349